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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,429	04/20/2006	Yasuhito Murata	10921.401USWO	2418

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.  
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MINNEAPOLIS, MN 55402-0902

EXAMINER
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ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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02/24/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,429	<b>Applicant(s)</b> MURATA, YASUHIRO	
	<b>Examiner</b> LYLE A. ALEXANDER	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-10 and 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,4-10 and 12-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Shindo et al. (5,556,597) or Maisey et al. (2002/0057993).

1. Shindo et al. teach a test strip supply device that removes a single test strip from a container with a plurality of test strips. Shindo teach in column 2 lines 17-22 teach the container is tubular with a guide is arranged on the inner wall in the elongated direction to secure a single test strip and a block member that maintain the test strip in the guide. Shindo teaches in figure 3 the test strips are dispensed along the horizontal plane and has been properly read on claimed “horizontally extending plate”. Shindo teaches in column 2 lines 32+ the “block member” engages the test strip and projects the test strip which has been properly read no the claimed interference portion/means.

2. Maisey et al. teach a device for dispensing test strips(16) comprising a stack of sensors(16) with a housing(2) that further comprises a rotatably mounted transport member(4) that has a recessed portion(12) that receives test strip(16) from the internal magazine(18) and dispenses the strip(16) to the user. Column 5 lines 30-65 teach barrel structure(4) with a recess portion (12) that contacts the test strip(16) and rotates the strip to a horizontal position where it is dispensed and has been read on the claimed “horizontally extending plate.” The claimed “interference portion/means” have been read on the taught recessed portion(12) that engages each test strip(16).

***Response to Arguments***

3. Applicant's arguments filed 12/11/09 have been fully considered but they are not persuasive.
4. Applicants' 12/11/09 amendments overcame all of the 35 USC 112 second paragraph issues.
5. Applicants' state Shindo does not teach the claimed "horizontally extending plate" of claim 1, the interference portion/means of claims 6 and 13. Shindo teaches in column 2 lines 17-22 teach the container is tubular with a guide is arranged on the inner wall in the elongated direction to secure a single test strip and a block member that maintain the test strip in the guide. Shindo clearly teaches in figure 3 the test strips are dispensed along the horizontal plane and has been properly read on claim 1. Shindo teaches in column 2 lines 32+ the "block member" engages the test strip and projects the test strip which has been properly read no the claimed interference portion/means.
6. Applicants' state Maisey does not teach the claimed "horizontally extending plate" of claim 1, the interference portion/means of claims 6 and 13. Maisey teaches in column 5 lines 30-65 a barrel structure(4) with a recess portion (12) that contacts the test strip(16) and rotates the strip to a horizontal position where it is dispensed and has been read on the claimed "horizontally extending plate." The claimed "interference portion/means" have been read on the taught recessed portion(12) that engages each test strip(16).

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Tuesday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lyle A Alexander  
Primary Examiner  
Art Unit 1797

/Lyle A Alexander/  
Primary Examiner, Art Unit 1797